

NRCS Reasonable Accommodation Procedure

401.36 Procedures

A. Requests by an employee, or on the employee's behalf, for reasonable accommodation under this regulation may be made orally or in writing to his or her immediate or first-line supervisor. The request should outline the kind of accommodation requested, if known.

B. If the employee has an obvious or previously documented medical condition that qualifies him or her as an individual with a disability, the accommodation request shall be considered immediately. If the employee does not have an obvious or previously documented medical condition that qualifies him or her as an individual with a disability, he or she may be required to provide sufficient documentation of his or her medical condition to the NRCS Disability Emphasis Program Manager, who will determine, in consultation with the Department's Medical Officer, whether the medical impairment rises to the level of disability. That determination and a recommendation on the requested accommodation will be provided to the appropriate NRCS official/decision makers. To enable NRCS to keep accurate records regarding reasonable accommodation, the employee seeking a reasonable accommodation or the receiver of the request must follow-up an oral request by one of the following:

(1) Completing Form AD-1163, Confirmation of Request for Reasonable Accommodation. See General Manual (GM), Title 230, Part 401, Subpart E, Exhibits, Section 401.51.

(2) Confirming the request in writing, including by e-mail. Although either the employee or the receiver of the request may document the request, the receiver is responsible for completing written documentation and sending a copy to the NRCS DEPM.

(i) An employee gives an applicant seeking a reasonable accommodation the Form AD-1163, Confirmation of Request for Reasonable Accommodation, from the personnel office where the applicant is submitting the application.

(ii) Although a written document is required for record-keeping purposes, Form AD-1163 shall be processed in accordance with timeframes outlined in these procedures. Accommodations needed repeatedly (e.g., sign language interpreter, reader, or personal assistant) do not require written confirmation. The initial or subsequent request should contain language describing the accommodation as "recurring and continuing" and appropriate notice must be given each time the accommodation is needed.

(iii) If a written or oral request is made to an NRCS employee who does not have the authority to provide the accommodation, the request shall be forwarded as soon as possible, but in no more than five days, to the appropriate NRCS official.

C. When the employee is determined to be a qualified individual with a disability and the requested accommodation does not cause undue hardship to the Agency, the accommodation shall be provided.

D. Because a reasonable accommodation allows the employee to perform the essential functions of the job satisfactorily, it is expected that the accommodation shall be provided within 30 business days of the request, unless documented extenuating circumstances prevent accommodation within this time period.

E. The process of providing reasonable accommodation must begin as soon as possible after the request for an accommodation is received. The communications process is crucial, and management shall consult all necessary parties, including, but not limited to:

- (1) Employee
- (2) Members of the family of the employee
- (3) The employee's attending physician
- (4) Rehabilitation counselor
- (5) TARGET Center
- (6) Department's Medical Officer
- (7) Department's Disability Employment Program Manager
- (8) NRCS Disability Emphasis Program Manager
- (9) Job Accommodation Network (JAN)

F. JAN, a service of the President's Committee on Employment of People with Disabilities, can provide information, free-of-charge, about many types of reasonable accommodations. JAN can be reached at 1-800-526-7234 (Voice/TTY) or visit their Web site at <http://www.jan.wvu.edu/>.

G. The determination of whether an accommodation would cause an undue hardship shall be made in consultation with the NRCS DEPM. If the immediate supervisor determines the accommodation to cause an undue hardship, the supervisor shall immediately consult the Agency's DEPM before issuing the decision.

Documentation is required when granting or denying the accommodation. This documentation shall be provided to the employee requesting an accommodation and the NRCS DEPM. If denying the accommodation, Denial of Reasonable Accommodation Request Form and supporting documentation must state specifically how the requested accommodation causes an undue hardship and provide written notification to the employee of his or her rights to file a complaint. A copy of the decision goes to the employee, the individual's immediate supervisor and the NRCS DEPM.

H. A first-line or immediate supervisor may request consideration for reasonable accommodation on behalf of an employee with a disability.

I. The supervisor may initiate the request, when he or she anticipates or suspects that an employee with a disability needs to be considered for a reasonable accommodation to perform the essential functions of the job he or she is in or desires. The communications process is crucial to determine if accommodations are needed. The supervisor shall speak with the employee and others as necessary to decide what, if any, accommodations are indicated.

J. When a reasonable accommodation is identified, the supervisor is authorized to initiate the process and/or provide the identified accommodation. The accommodation shall be provided as soon as possible, but within 30 business days after the accommodation has been identified unless documented extenuating circumstances affect this time period.

K. An applicant for reasonable accommodation under these procedures may make the request orally or in writing to the personnel office to which he or she is applying. This request should identify the accommodation, if known. Although an applicant with a disability may request a reasonable accommodation at any time during the application process, the applicant should, to the greatest extent possible, make the request as soon as he or she is aware of a barrier to the application process. Applicants with a disability contacted for an interview shall be asked, "Is an accommodation needed for the interview?" If the answer is "yes," the applicant shall be asked, "What type of accommodation?" Providing the accommodation for the interview shall be the responsibility of the interviewing official.

L. To determine eligibility, the applicant may be required to submit appropriate documentation to the personnel office. The representative in the personnel office may consult the NRCS DEPM regarding the eligibility of the individual. When a favorable determination is made regarding eligibility, the requested accommodation shall be provided unless to do so would cause undue hardship.

M. Reassignment is a form of reasonable accommodation. However, employees may be reassigned only to vacant positions that they are qualified to hold. If no undue hardship exists, reassignment, "the accommodation of last resort" can be considered after all other accommodations have been eliminated. It may be necessary to reassign an employee, because of a disability; the essential functions of the position held can no longer be performed, with or without a reasonable accommodation. When reassignment is made as a reasonable accommodation, the employee will not have to compete for it.

N. The employee must be at least minimally qualified for the position (i.e., must satisfy the requisite skill, experience, education, and other job-related requirements of the position) and be able to perform the essential functions of the position, with or without a reasonable accommodation. If the employee is qualified for the position, he or she should be non-competitively reassigned to the job.

O. In considering whether there are positions available for reassignment, the employee shall give the Human Resources Office a current copy of his or her qualification (Form OF-612, (resume), or Form SF-171) within two business days. The Human Resources Office will determine if there is a vacant position to which the employee may be reassigned. If no such position exists, the Human Resources Office shall forward the application to the Departmental Human Resources Office for reassignment department-wide. This action shall occur within two business days of receipt of the information from the Agency.

P. At any stage in the above process, the employee may be reassigned to a position for which he or she qualifies and for which he or she can perform the essential functions of the job, with or without a reasonable accommodation.

Q. The employee and the NRCS DEPM shall be notified in writing by the NRCS Human Resources Office of the outcome of the reassignment process within 10 business days of the decision.

R. Reasonable accommodations are designed to be effective and allow the individual with a disability to perform the essential functions of the job he or she occupies or desires. The communications process with the employee is essential in providing effective accommodation. Most accommodations are simple and inexpensive. Management shall provide written documentation when a reasonable accommodation has been provided and send a copy to the NRCS DEPM.

S. If an accommodation is denied that decision shall be immediately communicated to the requestor using Form AD-1165, Denial of Reasonable Accommodation Request Form. (See GM,

Title 230, Part 401, Subpart E, Exhibits) A copy of the completed form shall be given to the individual who made the request, the individual's immediate supervisor, and the NRCS DEPM. The explanation for the denial should be written in plain language, clearly stating the specific reasons for the denial. Where a specific requested accommodation was denied but a different accommodation was offered, the denial notice must explain why the request was denied and why the decision maker believes that the offered accommodation will be effective. Reasons for the denial must be specific; for example, why the accommodation would not be effective or why it would cause undue hardship.

T. The written notice of denial also informs the requestor that he or she has the right to file an equal employment opportunity complaint and may have rights to pursue a grievance or Merit Systems Protection Board appeal. The notice also explains procedures available for alternative dispute resolution along with appropriate encouragement to use this process to resolve issues associated with the denial to accommodate.